UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SCANSOFT, INC.,	)	
Plaintiff,	)	
v.	)	C.A. No. 04-10353-PBS
VOICE SIGNAL TECHNOLOGIES, INC., LAURENCE S. GILLICK, ROBERT S. ROTH, JONATHAN P. YAMRON, and MANFRED G. GRABHERR,	)	
Defendants.	)	

DECLARATION OF WENDY S. PLOTKIN

Wendy S. Plotkin deposes and states as follows:

1. I am an attorney in the law firm of Choate, Hall & Stewart, and a member of the bar of the Supreme Judicial Court of the Commonwealth of Massachusetts and the United States District Court for the District of Massachusetts. I am counsel to the above-named defendants and make this declaration in support of Voice Signal Technologies' Sur-Reply in Support of its Claim Construction Memorandum for U.S. Patent 6,501,966.

2. Attached hereto as Ex. 1 is a true and correct copy of a portion of the deposition transcript of Thomas Schalk.

* * *

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Wendy S. Plotkin

Dated: June 16, 2005

Exhibit 1

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v.	)	C.A. No. 04-10353-PBS
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Defendants.	)	

DEPOSITION OF THOMAS B. SCHALK, a witness called by and on behalf of the Defendants, taken pursuant to the applicable provisions of the Federal Rules of Civil Procedure, before Dana Ulrich Welch, CSR, Registered Professional Reporter, and Notary Public, in and for the Commonwealth of Massachusetts, at the offices of Choate, Hall & Stewart, 53 State Street, Boston, Massachusetts, on January 28, 2005, commencing at 9:18 a.m.

Job No.: 2197

ORIGINAL

APPEARANCES:

For the Defendants:

CHOATE, HALL & STEWART, P.C.
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By: Robert S. Frank Jr., Esq.

For the Plaintiff:

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And: Jack C. Schecter, Esq.

Also Present: Daniel Roth

I N D E X

E X H I B I T S

P R O C E E D I N G S

(The Texas driver's license number as identification of the deponent was noted for the record.)

WHEREUPON,

THOMAS B. SCHALK,

having duly sworn or affirmed that his testimony would be the truth, the whole truth, and nothing but the truth, testified as follows:

MR. FRANK: I'm not quite sure what the previous arrangement has been, but we're prepared to stipulate that, although Mr. Schalk should read and sign the deposition, that it need not be -- his signature need not be notarized.

And the only other agreement that I'd ask is if there are no corrections after 30 days, that the deposition be deemed to have been signed in its then current form. Is that acceptable?

MR. SCHECTER: That's acceptable.

DIRECT EXAMINATION

BY MR. FRANK:

Q. Good morning, sir. Tell us your name, please.
A. Thomas Barton Schalk.
Q. Where do you live, Mr. Schalk?
A. In Plano, Texas.
Q. May I have the street address, please?
A. 6637 Muirfield Circle.
Q. Are you presently employed?
A. Yes.
Q. By whom are you presently employed?
A. ATX Technologies.
Q. What is your position at ATX Technologies?
A. I'm vice-president of voice technology.
Q. And as vice-president of voice technology, what are your duties, just in general?
A. I lead the voice automation team.
Q. Would you describe your educational background beginning with college?
A. I attended George Washington University and graduated in 1973 with an EE in -- or a BS in electrical engineering.
And then I went to graduate school at

you to train it, you would instead attempt to dial or play back the phone number pending.

Q. So if you said a key word like "home" or "office," it would determine whether there was a previously stored telephone number associated with that word. And if it determined that there was such a phone number, it would then pass that phone number off --

A. It would attempt to dial whatever was programed in association with the target designations like "home," "office" and so forth.

Q. And is it correct that the Uniden system included or employed a speech recognition method?

MR. SCHECTER: Objection.

THE DEPONENT: A speech recognition. A speech recognizer was used in the Uniden phone that's described in the operating guide.

BY MR. FRANK:

Q. Okay. Is it correct that the Uniden phone utilized, and to be fair, I should point out to you I'm following the words of the

claim, is it correct that the Uniden phone utilized a speech recognition method for a mobile telecommunications system?

MR. SCHECTER: Objection.

THE DEPONENT: Can you repeat that? I'm trying to get the question.

BY MR. FRANK:

Q. Sure. Is it correct that the method incorporated in the Uniden system was a speech recognition method for a mobile telecommunications system?

MR. SCHECTER: Objection.

THE DEPONENT: Not a mobile communications system. It was an interface to the phone, to the dialing process of the phone.

BY MR. FRANK:

Q. What's the distinction that you're making?

A. Well, the phone, and like a destination that you're calling, I mean, that's all part of the telecommunications system. But this is an interface to the dialer, in the case of the Uniden phone.

Q. Okay. Was the product that you called an off-board product, a speech recognition method for a mobile telecommunications system?

MR. SCHECTER: Objection.

THE DEPONENT: A speech recognition method for a mobile telecommunications system? In the context that the recognizer was designed to work or to work on speech, perform it's algorithm processing on speech generated over a mobile telecommunications network.

BY MR. FRANK:

Q. Okay. You distinguished before between what you called an on-board product and an off-board product.

A. Correct.

Q. Is it your testimony that the -- a speech recognition method for a mobile telecommunications system --

A. Let me just say, you're using verbiage from the patent claims which are not -- I'm not a patent expert. And you're using terms that are making it difficult for me to interpret.

Q. Yes. Except I'm trying to get your

best understanding; that's all I can ask for.

A. But if you use different ways of wording things, I can answer the questions better.

Q. Unfortunately, I'm constrained by some legal requirements to ask you some of these questions this way.

A. And I'm not someone who is in a position from a legal standpoint to interpret some of the language.

Q. I'm asking from your perspective, both as the inventor of this patent and as somebody who's in the business. And I'm simply asking for your understanding.

A. Okay. And I'm going to have to answer the questions using terms I am comfortable with and hoping that they match what you're thinking.

Q. Okay. So let me ask whether a method employed in the Uniden product, as described in Schalk Exhibit 4, was a speech recognition method for a mobile communications system?

A. The method employed in the Uniden phone? Method, I'm not sure if you're talking

about the method of speech recognition, the method associated with the logic of the call flows.

Q. The method of speech recognition.

A. The method of speech recognition is different in the Uniden phone than in a system -- it's not necessarily the same.

Q. And is it correct that the method, the speech recognition method used in the Uniden phone is, in your opinion, not a speech recognition method for a mobile telecommunications system?

MR. SCHECTER: Objection.

THE DEPONENT: In a general sense -- it depends on how you define it. The speech recognizer in the Uniden phone is designed to recognize speech going through the handset, the audio as its received.

You may have situations where you're speaking into a handset where the audio is transmitted to an off-board recognizer, the recognition would be different, details of the algorithm and such.

BY MR. FRANK:

Q. In your understanding is the speech recognition method used in the Uniden product described in Exhibit 4, a speech recognition method for a mobile telecommunications system?

MR. SCHECTER: Objection.

THE DEPONENT: System? It doesn't make a lot of sense to describe it that way. The Uniden phone is an embedded speech recognizer that has direct input from a microphone and serves as an interface to a phone that is then part of a system.

BY MR. FRANK:

Q. When you say then part of the system, you're referring to --

A. A mobile -- when I think of mobile telecommunications system, I think of, you know, communications media, a way you can communicate from one phone to another phone. This is an interface to the dialing piece of the phone.

Q. Let me ask a question that may help clarify. You've described a system that Voice Control Systems developed for Brite Voice, McCaw --

A. An application, yes.
Q. An application?
A. Yes.
Q. Was that a speech recognition method for a mobile telecommunications system?
A. Speech recognition method is not a term that I'm comfortable with.
There's speech recognition algorithm, the details of how you process the speech. But when you talk about a speech recognition method, I'm not sure. I need another way for you to describe that; that's really as simple as that.
Q. Was it a speech recognition system for a mobile telecommunications system, meaning hardware and software together, that is, the McCaw/MetroCell/Brite Voice product?
A. You could call it that. I'm just making the point that when the term speech recognition method, that doesn't -- that's not consistent with how I would describe a speech recognition algorithm or even a speech recognition unit in a system.
Q. Okay. Now, let me ask you -- withdraw.

Q. Yes.

A. Yeah. The MIN is the cellular telephone number. So you've got voice going back and forth and data going back and forth when you're using a cellular phone. So the system knows your phone number as a way for, you know, part of your billing, you know, the phone number associated with your phone and then there's a serial number as part of the phone itself.

Q. Yes.

A. So the recognizer is not recognizing the phone number associated with your phone.

Q. Does the speech recognition system --

A. The application does. The speech recognizer, itself, doesn't. You may be meaning the application when you say speech recognition system. System is a broad term to me, for clarification purposes.

Q. Was the decision to move or to have a product where the voice recognition apparatus was located at or as part of the central switch, did that make it feasible to have a combined speaker-dependent and

speaker-independent voice recognition system?

MR. SCHECTER: Objection.

THE DEPONENT: Actually, in my opinion the algorithms that came about, that were developed, could also be used on a system that was not an off-board application. The memory requirements turned out to be very, very small.

BY MR. FRANK:

Q. So it's your opinion that it was the algorithms developed by your group that made it feasible to have the combined system?

MR. SCHECTER: Objection.

Mischaracterizes.

BY MR. FRANK:

Q. I'm not trying to mischaracterize. Correct me if I'm wrong.

A. We developed a way to extend our speaker-independent algorithm to operate in a speaker-dependent mode. The memory requirements to represent what we refer to as a template or a representation of something that someone speaks, like a name, the memory requirements for that were so small, the RAM

requirements for an on-board solution, that it was practical to implement that on an on-board, meaning embedded, or off-board.

Q. And do you find that algorithm or that -- do you find that algorithm or that development -- withdrawn.

MR FRANK: Would you read the last answer to me so I ask the question in the terms that the last answer was articulated.

(The testimony referred to was read by the stenographer.)

BY MR. FRANK:

Q. And is that the method that you said earlier was maintained as a secret at Voice Control Systems?

A. Details were never disclosed. But some of the manipulation of the speaker-dependent representations, how you'd manipulate that and do the averaging, was shared with Brite, for example. But how the actual numeric representations were generated, how you got that, was never revealed.

Q. And there's nothing in this patent, the 966 patent, that describes the method that you

just referenced; is that correct?

A. The feature extraction process is not disclosed. And that's very relevant to how we generated the speaker-dependent representations of the words spoken. That type of information was not disclosed, to my knowledge, in patents, not the algorithms, per se.

Q. In the absence of the methodology that you just described, the stuff that was not disclosed, it's correct, is it not, that it would at the time of the application for this patent, been within the skill of people like yourself to develop a speaker, a combined speaker-dependent and speaker-independent voice recognition system, except that it would have required a lot more computing power and memory?

MR. SCHECTER: Objection.

THE DEPONENT: I can't paraphrase that question to myself. Are you saying that someone else could go off and copy what we did?

BY MR. FRANK:

Q. No. I'm saying based upon what was known in the voice recognition art or business

as of the date of the application for this patent, is it correct that a person who did not have access to the methodology that you developed, could nevertheless, have had a combined speaker-dependent and speaker-independent voice recognition system, as long as that person had sufficient computing power available to them?

MR. SCHECTER: Objection.

THE DEPONENT: As long as you had sufficient computing power. In fact, I believe there were other implementations of hybrid recognition solutions, speaker-independent, speaker-dependent. You'd see it in the research labs.

BY MR. FRANK:

Q. So that was within the scope of what people in the business could do?

A. In theory. There was nothing preventing anyone from doing exactly what we did without us knowing it.

Q. That's as of when the first of these applications --

A. At any time.